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WP.No.11655 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **21.06.2024**

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THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.11655 of 2022

1. P.Prabhakaran
2. S.Harikumaran

.. Petitioners

Versus

1. The District Registrar [Administration],
District Registrar Office, Nallipalayam Post,
Namakkal, Namakkal District.

2. The Sub Registrar,
O/o.Sub Registrar, Namakkal, Namakkal District.

3. The Assistant Commissioner HR & CE Department,
Arulmigu Arthanareeswarar Thirukovil,
Thiruchengode – 637 211.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus Calling for the records relating to (1) the first impugned order bearing No. Se.Mu No.647/ Aa1/ 2021 dated 21.06.2021 passed by the first respondent upholding the impugned registration refusal check-slip No RFL/ Tiruchengode/ Blook-2/3 dated 31.12.2020 issued by the 2nd respondent (2) the 2nd impugned order bearing No. Se.Mu No.648/ Aa1/ 2021 dated 21.06.2021 passed by the 1st respondent upholding the impugned registration refusal check-slip No RFL/ Tiruchengode/ Blook-2/4 dated 31.12.2020 issued by the 2nd respondent and (3) the 3rd impugned order



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bearing No.Se.Mu No.649/ Aa1/ 2021 dated 21.06.2021 passed by the 1st respondent upholding the impugned registration refusal check-slip No RFL/ Tiruchengode/Book-2/5 dated 31.12.2020 issued by the second respondent and quash the same as also to consequently direct the second respondent to remove the registration refusal entries in the relevant index and books of the Sub Registrar's office, Thiruchengode and register the three sale deeds dated 14.09.2020, 01.10.2020 and 23.11.2020 executed in favour of the petitioners which respectively are Doc.Nos.P94/2020, P/99/2020 and P.120/2020 in respect of the land comprised in new S.F. No.37/2 [then subdivided as S.F.No.37/2A and 37/2B1] of Andipalayam Village, Thiruchengode Taluk.

For Petitioner : Mr.N.Sundaar

For Respondents : Mr.B.Vijay,
Additional Government Pleader – R1 & R2

Mr.K.karthikeyan,
Government Advocate – R3

ORDER

Challenging the impugned refusal slip of the respondents and consequently, direct the respondents remove the entries in relevant index and book and to register the three sale deeds executed in favour of the petitioners, the present Writ Petition has been filed.



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WEB COPY 2. Heard learned counsel for the petitioners and the learned Additional Government Pleader appearing for the respondents 1 and 2 and the Government Advocate appearing for the third respondents and perused the materials available on record.

3. Brief facts leading to filing of the Writ Petition is as follows :

One Sengodan @ Palaniappan, Mani @ Muthusamyand Chellappan Ammasi, sonc of Ammasai Counder @ Ammasi Gounder have undivided share in the land measuring 6.35 acres in New S.F. No.37/2. Thereafter, the property has been purchased by the predecessor in title of the petitioner. While so, the said property was the subject matter of the partition suit filed in O.S.No.288 of 2007 among the family members. According to the petitioners, an extent of 6.35 cents has been divided among the legal heirs of the original title holders. The petitioners have purchased the said property under 3 sale deeds dated 14.09.2020, 01.10.2020 and 23.11.2020 from the previous owners. Now, when the documents were presented for registration, the same has been refused to be registered on the ground that the property is a temple property, particularly on the basis of the letter given by the authorities under the Hindu Religious and Charitable Endowment Board. As against the said



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refusal Slips, an appeal has been filed before the first respondent, who has confirmed the Order of the second respondent. Challenging the same, the present Writ Petition has been filed.

4. Counter has been filed by the second respondent to the effect that Old Survey No.37 and 29/2 to an extent of 8.18 Acres in Andipalayam Village Tiruchengode Taluk, which was bequeathed in favour of the temple by one Ammani Ammal by a registered Will dated 09.02.1918. Their contention is that their lands are situated in the Old Survey Nos.4, 57/4 and 58/1 and New Survey No.37/2A and 27/2B1. Hence, it is their contention that the petitioners, without properly identifying their lands, are claiming right over the land belong to the temple. According to them, the land situated in Old Survey Nos.37 and 29/2, is the absolute property of the temple. Hence, opposed the Writ Petition.

5. The learned counsel appearing for the petitioner would submit that the right claimed by the petitioner over the immovable property is a different property, which is owned by the petitioner's predecessor in title. According to the learned counsel for the petitioners, original survey number of his predecessor in title is survey Nos.4, 57/4 and 58/1 and the corresponding



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new survey Number is 37/2. According to him, this is very much found in the A register. Similarly, the temple land in old survey No.37 and 29/2 and new survey No.83. The total extent is 8.18 which is also clearly found in the A register. Therefore, merely on the basis of change in survey number, the claim has been made by the temple.

6. The learned counsel appearing for the third respondent submit that their survey number is 37/2 and hence, temple is the owner of the property.

7. I have perused entire materials. The claim of the temple is for an extent of 8.18 acres. It is not disputed by the temple that their original survey No. is 37 and 28/2 which is correspondent to the new survey No.83. This aspect also has not been disputed. Temple is claiming right only in respect of Old survey No.37, 29/2. They claim right mainly based on the new survey number 37/2 assigned to the writ petitioner. However, property of temple is different one which is not connected to new survey No.37/2. As per 'A' register, the petitioner traces title from different persons and the said property is also the subject matter of the suit among the predecessors in title in O.S.No.288 of 2007. Whereas, the temple is claiming title in respect of an



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extent of 8.18 in old survey no.29/2 and 37. Merely on the basis of the similarity in the new survey number, this Court is of the view that the document cannot be refused to be registered.

8. Accordingly, this Writ Petition is allowed and the impugned Orders dated 21.06.2021 stand quashed and the second respondent is directed to register the pending sale deeds presented by the petitioners dated 14.09.2020, 01.10.2020 and 23.11.2020 within a period of fifteen days from the date of receipt of a copy of this Order. If at all the temple still wants to establish their title on their property, it is for them to seek remedy before the Civil Court. No costs.

21.06.2024

vrc

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To,

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2. The Sub Registrar,
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N. SATHISH KUMAR, J.

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